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**From:** Mutter, Andrew [mutter.andrew@epa.gov]  
**Sent:** 5/8/2018 8:16:03 PM  
**To:** Benevento, Douglas [benevento.douglas@epa.gov]  
**Subject:** FW: News Clips - 8 May 2018

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**From:** Hassell, Emily  
**Sent:** Tuesday, May 8, 2018 2:15:58 PM (UTC-07:00) Mountain Time (US & Canada)  
**To:** AO OPA OMR CLIPS  
**Subject:** News Clips - 8 May 2018

*(Full stories, highlights, and details are listed further down in the email, and can be jumped to by clicking on any of the links below.)*

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#### **General**

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[Politico - Cruz, Grassley: Trump backs E15 waiver, credits for ethanol exports](#)

Reuters - Trump to lay out biofuels plan in meeting with senators: sources

The Hill - EPA pesticide settlement comes under scrutiny

Daily Caller - Anti-Trump AG Tried To Shut Down EPA's Transparency Plan Hours Before Resigning In Disgrace

The Hill - Dem AGs ask Pruitt to halt 'transparency' proposal to restrict EPA science

Chicago Tribune - EPA discovers another lead-contaminated neighborhood near East Chicago

Wall Street Journal - Maryland to Other States: Stop Sending Us Your Dirty Air

BNA - Trial Ahead in Alabama Superfund Bribery Case

Santa Fe New Mexican - Cibola County opposes EPA cleanup site proposal for basin

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### **New York Times**

[https://www.nytimes.com/2018/05/07/climate/pruitt-epa-threat-files.html?rref=collection%2Ftimestopic%2FEnvironmental%20Protection%20Agency&action=click&contentCollection=timestopics&region=stream&module=stream\\_unit&version=latest&contentPlacement=1&pgtype=collection](https://www.nytimes.com/2018/05/07/climate/pruitt-epa-threat-files.html?rref=collection%2Ftimestopic%2FEnvironmental%20Protection%20Agency&action=click&contentCollection=timestopics&region=stream&module=stream_unit&version=latest&contentPlacement=1&pgtype=collection)

### **New Files Detail the Threats Made Against Scott Pruitt at the E.P.A.**

By Eric Lipton and Kenneth P. Vogel, 5/7/18

WASHINGTON — The Environmental Protection Agency had a total of 33 threat investigations underway as of mid-March — 10 of them involving Scott Pruitt from the last six months — a security assessment released Monday shows, offering the most detailed tally yet of threats against the agency's top official.

The memos, provided to The New York Times in response to a Freedom of Information request, are the documentation that Mr. Pruitt has pointed to in justifying the round-the-clock security he has received since taking over the agency in February 2017, as well as first-class flights he has taken, among other unusual security expenses.

The memos also show the degree to which Mr. Pruitt is not the first E.P.A. administrator or agency employee to receive threats. The total number of threat investigations by the agency has fluctuated from 47 in fiscal year 2015 to 43 in 2016 to 50 in 2017, most of which was during the Trump administration.

The records, released Monday, include summaries of the number of threats received, as well as copies of incident reports in which agency investigators followed up. The threats were received in the form of Twitter messages, emails, postcards and phone calls, among other methods, including at least one threatening letter from an inmate, which was "forwarded back to prison officials," according to one memo.

The inspector general's office investigated the threats with other federal agents, often interviewing the individuals who made the threats by traveling to their homes in locations including Ohio, Illinois, Michigan, Arkansas and Oklahoma. The investigators appeared to err on the side of recommending criminal cases against them, though federal prosecutors often rejected the recommendations.

That's what happened in the case of someone who sent a "potentially threatening postcard" to Mr. Pruitt. During an interview at the home of the sender, the person "expressed regret and apologized for sending the postcard," according to the memo, even as the person "was wearing two handguns on [his or her] waist."

The documents redact names and other information, including gender, that could be used to identify the people who made the threats.

The United States attorney's office also rejected a recommendation to prosecute a person who sent an email to Mr. Pruitt's predecessor, Gina McCarthy, who served under President Barack Obama. The email had the subject line "Ban glyphosate or die you haggard nazi bitch! DIEDIEDIEDIEDIEDIEDIE." Glyphosate is a herbicide.

When the sender, who was later determined to have sent threatening emails to Hillary Clinton, then a presidential candidate, and also to have "mental instabilities," was interviewed at home, there was an assault rifle standing in the corner of the room, the memo indicated. However, the sender told investigators that he or she "would not hurt anyone" because the individual "does not leave" the house.

Another case that was declined by federal prosecutors was described as resulting from a social media post stating that the person "is not happy with some of [Mr. Pruitt's] policies and wanted to express [his or her] displeasure," according to the memo.

Other threats appear to have targeted Mr. Pruitt's family, including one expressing hope that a family member "dies soon, suffering" as others watch "in horror for hours on end." The investigation into that threat is continuing, the memo states.

Separately on Monday, the agency released a memo that had been used to justify Mr. Pruitt's first-class flights, signed by Pasquale Perrotta, who served as Mr. Pruitt's chief of security until late last month.

"We are requesting that the EPA Administrator be strategically seated in business and or first class seating when on official travel," said the May 2017 memo from Mr. Perrotta, which was released to The Washington Post, also as a result of a Freedom of Information request. The memo cited a "lashing out from passengers which occurs while the Administrator is seated in coach," and went on to say that continued use of "coach seats for the Administrator would endanger his life."

The decision to have Mr. Pruitt fly only first class as well as questions about the security threats are now being investigated.

According to the memos detailing threats against Mr. Pruitt, in some instances the inspector general's office declined to pursue them. They included a letter that was "full of disjointed threats" but that "was not considered by the EPA OIG to contain an actual threat," and a postcard that called Mr. Pruitt "evil incarnate" but that could not be traced to the sender.

Tension has surfaced in recent months between two divisions at the E.P.A. charged with trying to secure agency employees. The inspector general has emphasized the growing number of threats, while the Office of Homeland Security, which is actually charged with making threat assessments, has concluded that many of the alleged threats are just private individuals sounding off in ways that are protected by the First Amendment.

"EPA Intelligence has not identified any specific credible direct threat to the EPA Administrator," a February memo from the homeland security office said.

## Internal documents pull back the curtain on Pruitt's EPA

By Geoff Bennet and Charlie Gile, 5/7/18, 5:33 PM

WASHINGTON — Newly obtained internal documents from the Environmental Protection Agency provide a behind-the-scenes look at the Scott Pruitt-led agency — offering evidence of private, high-level meetings at the Trump International Hotel in Washington and lavish dinners for top agency officials both at home and abroad.

In one such instance — during a four-day trip to Italy for last year's G-7 summit — Pruitt dined at the five-star, luxury Hotel Eden in Rome. That detail is included in the more than 10,000 pages of documents obtained through a Freedom of Information Act lawsuit by the Sierra Club.

The Hotel Eden's fine dining restaurant, La Terrazza, offers a tasting menu for 280 Euros per person (\$333.76, U.S.). A schedule indicates Pruitt's dining partners for the evening included his chief of staff Ryan Jackson, and Samantha Dravis, his former senior counsel who resigned abruptly last month.

Previously reported agency records show that Pruitt's entire Italy trip cost around \$120,000.

"These are very important meetings that take place," Pruitt said at the time. "It's an obligation. I have to participate, and so I'm a little bit dumbfounded by the kind of media narrative that these things are somehow not the focus, they've always been the focus."

However, the new documents, which were first reported by The New York Times, suggest that official events comprised only a small portion of his Italy trip.

Pruitt — who rose to prominence as Oklahoma's attorney general — is now facing at least a dozen investigations into allegations of misuse of taxpayer money, ethics violations and improper dealings with industry lobbyists.

The documents suggest that Pruitt's old Oklahoma political connections still have his ear and curry favor. In a May 2017 email exchange, former Pruitt fundraiser Tamara Cornell asks the EPA administrator to address the Global Warming Policy Foundation, a climate-change denying organization.

The documents also show that on at least four occasions Pruitt planned meetings with energy company representatives at the Trump International Hotel in Washington, which is located near EPA headquarters.

One revelation included in the documents supports recent reporting about Pruitt's penchant for using his security detail's lights and sirens to cut through Washington traffic in non-emergency situations — including while rushing to dinner at the upscale Washington restaurant Le Diplomate.

In an October 2017 email exchange — as Pruitt's executive scheduler Sydney Hupp tries to arrange a dinner for her boss and D.C. energy lobbyist Mike McKenna — Hupp replies, "Le Diplomate is his favorite!"

The Times reported a security agent was removed from Pruitt's detail shortly after he told the EPA chief the siren was only for emergencies.

Sierra Club Executive Director Michael Brune said the newly obtained EPA documents "expose a deeply rooted culture of corruption surrounding Scott Pruitt and his dealings in essentially every aspect of his job."

Brune added: "Scott Pruitt doesn't live in the swamp — he is the swamp — and he should resign, or be fired immediately."

The EPA did not respond to NBC News' request for comment.

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**New York Times**

<https://www.nytimes.com/2018/05/07/climate/trump-fire-pruitt-epa.html?rref=collection%2Ftimestopic%2FEnvironmental%20Protection%20Agency>

**White House Aides Are Urging President Trump to Fire Scott Pruitt, the E.P.A. Chief**

By Coral Davenport and Maggie Haberman, 5/7/18

WASHINGTON — Senior White House staff members are encouraging President Trump to fire Scott Pruitt, his embattled Environmental Protection Agency chief, according to two top administration officials. While Mr. Trump has until now championed Mr. Pruitt, the officials say the president's enthusiasm may be cooling because of the ongoing cascade of alleged ethical and legal missteps.

Over the past few months, as Mr. Pruitt's problems have mounted — he is now the subject of at least 11 federal investigations and some Republicans have called for his resignation — Mr. Trump has continued to support his E.P.A. chief on Twitter and in public and private remarks.

But that is likely to change in the coming weeks, the two officials said.

Since last month's confirmation of Mr. Pruitt's deputy, the former coal lobbyist Andrew Wheeler, White House staff members say they believe that if Mr. Pruitt is fired or resigns, Mr. Wheeler will continue to effectively push through Mr. Trump's agenda to help the coal industry and roll back environmental regulations.

Some Republicans have said that Mr. Wheeler, a former Capitol Hill and E.P.A. staff member — known as a low-key but highly experienced Washington insider — would quite likely be as effective, and possibly more so, than Mr. Pruitt at undoing regulations, without drawing the embarrassing headlines of his boss.

At the White House on Monday, Sarah Huckabee Sanders, the press secretary, expressed confidence in Mr. Wheeler but declined to say whether Mr. Trump intended to fire Mr. Pruitt in the near future.

"I don't have any personnel announcements on that front," Ms. Sanders said. "Certainly we have confidence in the No. 2, otherwise the president wouldn't have asked him to serve at such a senior level position within the E.P.A."

Meanwhile, as the negative media reports about Mr. Pruitt continue, Mr. Trump is now likely to pay more attention, the officials said.

One official said there was recognition now that Mr. Pruitt's problems were "a bottomless pit." But the White House doesn't know how much more there is or what direction it could take.

Newly revealed emails detail how Mr. Pruitt operated the agency in unprecedented secrecy.

Privately, even many in Mr. Pruitt's inner circle at the E.P.A. have expressed frustration with their boss's actions.

In the past month, at least five of his senior staff members have resigned, including Samantha Dravis, his senior policy adviser; Pasquale Perrotta, his chief of security; Albert Kelly, a business associate from Mr. Pruitt's home state of Oklahoma whom Mr. Pruitt had appointed to a top policy position at the E.P.A.; Liz Bowman, his communications director; and John Konkus, a senior press office official. As many as a dozen more senior political staff members are said to be considering resigning, according to three current staff members and one former one.

Mr. Pruitt's actions have tried the patience of even his staunch supporters, including some Republicans.

“Republicans like what he’s done, but they don’t like how he’s done it,” said John Feehery, a Republican strategist who worked for the former House Speaker Dennis Hastert and the former majority leader Tom DeLay. “He has made some major mistakes and doesn’t seem to care that much about them. They have a lot of tolerance, but it has its limits.”

Other administration officials have resigned over similar ethics and spending controversies.

Tom Price, the former secretary of health and human services, was forced to resign last year after racking up nearly \$400,000 in travel bills for chartered flights. Mr. Trump fired David J. Shulkin, the veterans affairs secretary, after an inspector general’s report concluded that he had spent too much time sightseeing on official trips and had improperly accepted Wimbledon tickets as a gift.

Some of the 11 federal investigations into Mr. Pruitt’s behavior span a far wider range of ethics questions. The House Oversight Committee, led by Representative Trey Gowdy, Republican of South Carolina, has opened an inquiry into Mr. Pruitt’s actions at the E.P.A., the first Republican-led investigation of a Trump administration cabinet member. On May 2, Mr. Gowdy’s staff began conducting transcribed, closed-door interviews with Mr. Pruitt’s closest aides.

A government watchdog office has concluded that Mr. Pruitt broke the law with the \$43,000 installation of a secure telephone booth. He remains under investigation for several ethics concerns, including his condominium-rental agreement with the wife of an energy lobbyist, and the accusations that he demoted or sidelined E.P.A. employees who questioned his spending. He has been criticized for lavish expenditures on foreign travel, including a trip to Morocco — a country where the E.P.A. has no policy agenda — that was arranged by a lobbyist. His domestic travel also came under scrutiny after a former Pruitt staff member told Congressional investigators that Mr. Pruitt often sought to justify travel home to Oklahoma, directing his employees to “find me something to do” there.

Still, Mr. Pruitt’s supporters, including some of Mr. Trump’s most prominent friends in the coal and oil industries, note that the E.P.A. administrator, perhaps more than any cabinet member, has pushed through a policy agenda that allows Mr. Trump to claim that he is fulfilling a core campaign promise: stripping away regulations that he says stymie the growth of the American economy.

Some of those rollbacks have come at the direct request of Robert E. Murray, the chief executive of Murray Energy, one of the nation’s largest coal producers, who is a longtime Trump supporter and donated \$300,000 to the president’s inauguration.

“Administrator Pruitt has been the star of the Trump Administration,” Mr. Murray said in a statement. “He is taking the actions necessary to reverse the illegal and destructive regulations of the Obama Administration.”

Harold Hamm, the chief executive of Continental Resources, an Oklahoma-based oil and gas company, who has advised Mr. Trump and championed Mr. Pruitt, has told people close to the White House that he continues to support the E.P.A. leader.

During an April 26 appearance before a Congressional committee, at which Mr. Pruitt had been expected to come under fire for his alleged ethical lapses, conservative Republicans from farm and rust belt states lavishly praised Mr. Pruitt for his policy work.

Representative Kevin Cramer of South Dakota, who advised the Trump campaign and is running for Senate, told Mr. Pruitt, “I think the greatest sin that you’ve committed, if any, is that you have actually done what President Trump ran on, what he won on, and what he has commissioned you to do in finding some balance in both carrying out the mission of environmental protection, while at the same time looking over economy and jobs creation.”

## **Washington Post**

[https://www.washingtonpost.com/news/energy-environment/wp/2018/05/07/top-federalist-society-official-initially-paid-for-scott-pruitts-costly-dinner-in-rome-epa-officials-confirm/?utm\\_term=.d3ebfb182087](https://www.washingtonpost.com/news/energy-environment/wp/2018/05/07/top-federalist-society-official-initially-paid-for-scott-pruitts-costly-dinner-in-rome-epa-officials-confirm/?utm_term=.d3ebfb182087)

### **Top Federalist Society official initially paid for Scott Pruitt's costly dinner in Rome, EPA officials confirm**

By Juliet Eilperin, 5/7/18, 7:11 PM

Environmental Protection Agency Administrator Scott Pruitt dined at one of Rome's finest restaurants at the expense of a top official at the conservative Federalist Society, agency officials confirmed Monday, only to reimburse him later.

The meal at Al Ceppo, first reported by the New York Times, was one of several events that Leonard Leo, Federalist Society executive vice president, set up for Pruitt during his trip to Italy last June. Leo, a longtime Pruitt confidant and prominent American Catholic, personally arranged multiple events at the Vatican as well as three separate meals that included high-ranking Vatican officials.

Asked about the June dinner, EPA spokesman Jahan Wilcox said Pruitt was allowed to accept the meal as a gift, given the two men's personal relationship, but subsequently reimbursed Leo for the cost. Wilcox did not answer questions concerning the cost of the meal, when the payment was made and whether Pruitt reimbursed Leo for the lunch and dinner he hosted the following day in Rome.

"Administrator Pruitt and Leonard Leo are longtime close friends, and more, Mr. Leo is not a lobbyist. As such, the meals are allowable as a gift under federal law," Wilcox said. "However, the Administrator chose to pay for the meals and not accept the allowable gift."

In addition to arranging for three meals in the city, according to a trip participant, Leo scheduled a private tour of the Vatican Library, the Scavi (the Vatican necropolis) and the Apostolic Palace for Pruitt and his top aides over the span of two days.

The Washington Post reported last week that when Pruitt left a private Vatican Mass for a discussion of environmental policy with Archbishop Paul Gallagher, he invited Leo to join the meeting, according to two trip participants.

Pruitt worked with Leo while serving as Oklahoma's attorney general, challenging several of the Obama administration's domestic policies. Since joining President Trump's Cabinet, Pruitt has headlined multiple events at the Federalist Society, a group of lawyers who advocate conservative public policies.

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## **Politico**

<https://www.politico.com/story/2018/05/07/pruitt-california-cleanup-hewitt-meeting-521215>

### **Pruitt fast-tracked California cleanup after Hugh Hewitt brokered meeting**

By Emily Holden and Anthony Adragna, 5/7/18, 10:12 AM

EPA Administrator Scott Pruitt placed a polluted California area on his personal priority list of Superfund sites targeted for "immediate and intense" action after conservative radio and television host Hugh Hewitt brokered a meeting between him and lawyers for the water district that was seeking federal help to clean up the polluted Orange County site.

The previously unreported meeting, which was documented in emails released by EPA under a Freedom of Information Act lawsuit by the Sierra Club, showed Pruitt's staff reacting quickly to the request last September by Hewitt, who has been one of Pruitt's staunchest defenders amid a raft of ethics controversies around his expensive travel, security team spending and a cheap Washington condo rental from a lobbyist.

Pruitt has drawn criticism from environmentalists and other critics for letting prominent GOP backers and industry groups influence the agency's agenda — even as he has kicked scientists off of EPA's advisory panels and moved to limit the kinds of peer-reviewed research it will consider when making decisions.

In many cases, the people whose advice Pruitt is heeding could be useful supporters for him in a future race for U.S. senator or president. They include GOP megadonor Sheldon Adelson, who — as POLITICO reported in March — persuaded Pruitt last year to take a meeting with an Israeli water purification company called Water-Gen that later won a research deal with the EPA.

Hewitt, a resident of Orange County whose son James works in EPA's press office, emailed Pruitt in September to set up a meeting between the administrator and the law firm Larson O'Brien, which employs Hewitt and represents the Orange County Water District. Pruitt had been planning to meet with the lawyers in California a month earlier, but cancelled the trip to undergo knee surgery.

"I'll join if the Administrator would like me too or can catch up later at a dinner," Hewitt wrote in his Sept. 18 message. Hewitt added that the issues surrounding the Superfund site were "Greek to me but a big deal in my home county."

Pruitt's aides responded within minutes and quickly confirmed an Oct. 18 meeting for the lawyers and a project director.

Six weeks after that meeting, on Dec. 8, the Orange County North Basin site appeared on Pruitt's list of 21 contaminated areas to address. A month later, Pruitt proposed listing the site on EPA's National Priorities List, a move that could make it eligible for long-term federal cleanup funding from the federal government if the responsible polluters cannot be identified and forced to pay for its remediation.

Since then, Hewitt has been a robust defender of Pruitt, dismissing his recent controversies as "nonsense scandals" on MSNBC in early April and saying his detractors were "just trying to stop the deregulation effort."

Pruitt has touted the agency's Superfund work as one of his key priorities, setting up a task force to seek to speed up the clean-up of the nation's worst contaminated sites. That task force had been headed by Albert "Kell" Kelly, a former banker and longtime friend, who departed the agency last week after news about loans he provided to Pruitt in Oklahoma, including the mortgage provided to Pruitt for a house he bought from a lobbyist when he was a state senator.

Environmental advocates have worried Pruitt's efforts to identify Superfund priority sites would bypass the process set up by Congress to ensure cleanup resources are divided fairly, and that he could focus on sites seen as important to his political supporters. And environmentalists have said Pruitt's rush to claim that contaminated properties have been remediated could risk turning them over to local governments and businesses that might pursue cheaper, inadequate solutions.

Elgie Holstein, senior director for strategic planning at the Environmental Defense Fund who has been tracking EPA's Superfund actions, said the connection to Hewitt is "not a surprise."

"The biggest fear we have is that No. 1, the administrator's political priorities and personal ambitions, political ambitions become the primary criteria for action under this program instead of science and health," Holstein said.

EPA never disclosed the meeting with Hewitt's contacts. It was listed on Pruitt's public calendar as a staff briefing. But on his private Outlook schedule, which the agency has released in response to lawsuits, it appeared as an "Orange County Superfund Site" meeting with Kelly and two other staffers. The records did not list the Californians in attendance at the meeting at EPA headquarters in Washington.

But EPA spokesman Jahan Wilcox confirmed that two lawyers representing the water district, Robert O'Brien and Scott Sommer, and the water district director of special projects, Bill Hunt, were there. A third lawyer, former federal Judge Stephen G. Larson, was forced to cancel his trip due to wildfires in California, according to emails.



"Hugh Hewitt helped arrange the meeting at the request of the water district but did not attend," Wilcox said.

Wilcox said the meeting was for the water district to "brief EPA on the Superfund site's cleanup efforts and request expedited cleanup," following a 2016 agreement with the agency to conduct a remedial investigation and feasibility study, at a cost of \$4 million over two years. Hunt did not immediately respond to a request for comment.

Hewitt in an email to POLITICO called Pruitt a friend and said he does not have a working relationship with him. He said that his firm has represented the water district and worked on the site with EPA's regional office for years but that he had not participated in that work.

Hewitt said he requested a meeting because the water district wanted to brief the new EPA team, he said, adding that he was an Orange County resident until 2016 as well as an Orange County Children and Families Commission member. He said that he "very much" wanted the Superfund site remediated as soon as possible.

According to an EPA fact sheet, the Orange County site has more than five square miles of polluted groundwater containing chlorinated solvents and other contaminants across the cities of Anaheim, Fullerton, and Placentia. It includes the Orange County Groundwater Basin, which provides drinking water to more than 2.4 million residents across 22 cities, according to the agency. Those pollutants can damage humans' nervous systems, kidneys and livers, and some are considered carcinogenic.

EPA has just begun its process of studying the contamination and it has not determined which companies caused the pollution in the area. But an administrative settlement with the EPA in 2016 says the area was home to "electronics manufacturing, metals processing, aerospace manufacturing, musical instrument manufacturing, rubber and plastics manufacturing, and dry cleaning."

Hewitt also thanked EPA schedulers for working to arrange a meeting between Pruitt and the California Lincoln Clubs, which describe themselves as in favor of "limited government, fiscal discipline and personal responsibility." After some rescheduling Pruitt eventually met with representatives of the group on a trip to California in March of this year, according to his public calendar. Prominent Orange County businessman John Warner also helped to connect that group with staffers.

Pruitt and his scheduling staff have frequently sought to set up meetings with or for influential Republican figures, according to the internal EPA emails.

His team accepted an invitation for him to address The Philanthropy Roundtable at an invitation-only event at the White House for "conservative and free-market foundation CEOs and individual wealth creators to discuss the greatest opportunities for foundations to protect and strengthen free society" and "what [Pruitt] views as unique opportunities for philanthropic action.

As POLITICO reported in March, Pruitt also met with an Indiana coal executive and Trump fundraiser who was seeking to soften a pollution rule.

Pruitt also crafted his travel schedule — including a tour of states in August — to meet with big business much like a member of Congress would during the annual recess.

In July, EPA's associate administrator of public engagement Tate Bennett was working with Pruitt to "essentially create an August recess for the EPA to be out in the states talking with individual companies & doing listening sessions within sectors," said Leah Curtsinger, the federal policy director for the Colorado Association of Commerce & Industry, in an email introducing Bennett to her husband, public affairs director at coal company Cloud Peak Energy and a fellow alum of Senate Majority Leader Mitch McConnell's office.

## **Washington Post**

[https://www.washingtonpost.com/news/energy-environment/wp/2018/05/07/heres-the-epa-memo-that-justified-scott-pruitts-first-class-travel/?utm\\_term=.36682af5b827](https://www.washingtonpost.com/news/energy-environment/wp/2018/05/07/heres-the-epa-memo-that-justified-scott-pruitts-first-class-travel/?utm_term=.36682af5b827)

### **Here's the EPA memo that justified Scott Pruitt's first-class travel**

By Brady Dennis and Juliet Eilperin, 5/7/18, 10:44 PM

The memo is just 87 words.

But in that single paragraph, dated May 1, 2017, the head of Scott Pruitt's personal security detail made the argument that would underpin dozens of taxpayer-funded, first-class flights for the Environmental Protection Agency administrator in the months that followed.

In the memo, obtained by The Washington Post under a public records request, Pasquale "Nino" Perrotta wrote that Pruitt was being recognized more often in public and that those guarding him had noticed "at times lashing out from passengers which occurs while the Administrator is seated in coach with [his personal security detail] not easily accessible to him due to uncontrolled full flights."

As a result, Perrotta wanted a way to better control the environment around the controversial EPA chief.

"We believe that the continued use of coach seats for the Administrator would endanger his life," he wrote, "and therefore respectfully ask that he be placed in either business or first class accommodations."

Agency officials approved the request, and Pruitt soon began racking up hefty travel expenses. A \$7,003.52 ticket to Italy. A \$16,217 flight to Morocco. A \$1,641.43 first-class seat for the short flight from Washington to New York City for two television appearances.

In a two-day period last July, for example, Pruitt spent \$4,443 for separate round-trips to Birmingham and Atlanta and visits that included tours of a power plant and farm. On at least four occasions, he spent between \$2,000 and \$2,600 on first-class airfare to official meetings or tours near Tulsa, where he lives.

The EPA has maintained that Pruitt has faced a greater number of security threats compared to his predecessors, though some lawmakers have questioned the reasoning behind the administrator's first-class travel and his round-the-clock security detail.

Staffers at the House Oversight and Government Reform Committee have requested documents outlining the waivers the administrator got for traveling in business or first class, but the panel has only received Perrotta's initial memo and a June 2 letter from EPA's then-acting controller approving the seat upgrade.

Henry Barnett, who directs the EPA's Office of Criminal Enforcement, Forensics and Training, told The Post in February that the decision to request premium-level travel for Pruitt was an attempt to create "a buffer" between him and the public. He cited a specific incident in which a fellow traveler approached Pruitt "with threatening language" that was "vulgar," adding that security officials "felt they could not protect him appropriately, based on the amount of times he was being recognized and the way that some members of the public were acting toward him in a threatening manner."

Also in February, agency spokesman Jahan Wilcox said Pruitt had received a "blanket waiver" to fly in premium-class seats, though he subsequently said the administrator's office submitted a waiver request "for every trip."

Perrotta, who retired from the EPA last week, has been on Capitol Hill answering questions from congressional investigators. On Monday, he defended last May's special travel request in an interview with the Daily Caller. "When I supported the shift, there were instances that were very disturbing to me," Perrotta said, detailing a number of

instances in which people threatened Pruitt, either on social media or in voice mails. “Those particular examples — you don’t need many of them to realize there are people out there that want to cause harm.”

Documents released Monday to the Post, the New York Times and BuzzFeed in response to public records requests show that the EPA was working on 33 threat investigations as of mid-March. Ten of those in fiscal 2018 involved Pruitt, the documents show.

The documents include incident reports about the threats Pruitt faced, some of them sent via Twitter, emails, postcards and phone calls. Investigators looked into threats involving a range of people in an array of states, at times recommending criminal prosecution of those involved — though federal prosecutors often declined to move forward with charges.

In one instance in January, according to the records, a person in Arkansas, who claimed to be 85 years old, wrote an expletive-filled letter on the back of paperwork from the Department of Veterans Affairs. The person mentioned Pruitt’s comments on global warming and said of the EPA chief, “[I] hope you & your kind die of cancer of the guts, slowly in agony, & rot forever in a toxic sewer in hell.” What exactly investigators found was unclear, but they concluded the case should be “closed without further action.”

In another case last year, according to the documents, an unidentified person who sent a “potentially threatening postcard” to Pruitt received a visit from investigators. During that visit, the person was “wearing two handguns on [his or her] waist,” but “expressed regret and apologized for sending the postcard.” Federal prosecutors declined to file charges.

After The Post first reported the extent of Pruitt’s first-class travels in February, the administrator canceled a planned trip to Israel and later said he had instructed his security detail to find ways for him to fly in coach whenever possible.

Pruitt’s travel practices have been a key focus of the numerous inquiries he currently faces — probes that span Congress, the White House and the EPA’s inspector general. The investigations include his spending habits, living arrangements and management of the agency.

The travel memo is among the documents the agency has turned over recently at the request of House Oversight Chairman Trey Gowdy (R-S.C.). “We are working diligently with Chairman Gowdy and are in full cooperation in providing the Committee with the necessary documents, travel vouchers, receipts and witnesses to his inquiries,” the EPA spokesman said in a statement Monday.

The agency’s inspector general recently announced plans to open “new reviews” into ethics questions surrounding Pruitt, including his \$50-a-night rental of a lobbyist’s Capitol Hill condo in 2017. Last month, the Government Accountability Office concluded that Pruitt’s installation of a \$43,000 soundproof phone booth had violated federal spending laws.

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## **CNN**

<https://www.cnn.com/2018/05/07/politics/epa-pruitt-memos-waivers-first-class/index.html>

### **Memo says Pruitt flew first class to avoid 'lashing out from passengers'**

By Sara Ganim and Gregory Wallace, 5/7/18, UPDATED 6:07 PM

Washington (CNN) -- Documents provided to Congress fail to show Scott Pruitt got federally required waivers to fly first class -- and if he did, then his office has twice declined to hand them over to fellow Republicans asking for the verification.

Instead, in response to two requests for the waivers, the Environmental Protection Agency provided investigators with only two memos, according to the House Oversight Committee.

CNN separately obtained the memos, which state that people have recognized Pruitt and the occasional "lashing out from passengers" could "endanger his life" if he continues to fly in coach.

The limited nature of the two memos, along with a past claim by his spokesman, suggests the EPA administrator violated federal rules by failing to obtain a justification for the upgrades before each trip.

The EPA has previously defended Pruitt's travel and security arrangements, but did not respond to questions from CNN before the publication of this story about the memos or whether Pruitt obtained the required waivers.

After publication, EPA spokesman Jahan Wilcox said, "We are working diligently with (House Oversight) Chairman (Trey) Gowdy and are in full cooperation in providing the Committee with the necessary documents, travel vouchers, receipts and witnesses to his inquiries."

Pruitt had been asked twice -- in February and April -- by Gowdy, a fellow Republican, to provide any waivers exempting him from regulations requiring federal employees to typically fly in standard coach seats.

The two memos were part of 1,700 pages of documents turned over at the request of South Carolina's Gowdy. The documents include vouchers for all of Pruitt's official travel since he was confirmed and for EPA, vouchers for staff who went on international trips to Italy and Morocco, emails regarding Pruitt's lease of a room from a lobbyist's wife, and EPA correspondence between that lobbyist and other employees of his firm.

In addition, Gowdy's office was able to review travel vouchers for members of Pruitt's security detail, according to his office.

The flights are among several alleged ethical transgressions or questionable spending practices that have landed Pruitt in the spotlight of multiple investigative bodies, including Gowdy's committee, the EPA inspector general, and the Government Accountability Office.

Gowdy's request for the waivers was prompted by a Politico article from February in which Wilcox said Pruitt was granted a "blanket waiver" to travel in first class for security reasons.

The next day, Wilcox's story changed. Politico reported that federal regulations specifically prohibit "blanket authorization, and Wilcox changed his statement, saying a waiver was submitted "for every trip."

While the EPA has not provided detailed waivers, it has handed over more than 1,700 pages of documents in response to multiple requests relating to Pruitt's travel habits, unprecedented security, and sweetheart condo deal from an energy lobbyist, according to Gowdy's office.

But one memo indicates there was only one request for a waiver. It's dated May 1, 2017, and is a request from the acting security chief that Pruitt "be strategically seated in business and or first class seating when on official travel."

"We have observed and (sic) increased awareness and at times lashing out from passengers which occurs while the Administrator is seated in coach with PSD (Protective Services Detail) not easily accessible to him due to uncontrolled full flights," the memo reads.

"Therefore, we believe that the continued use of coach seats for the Administrator would endanger his life," the memo continues.

The second memo is a response from Acting Controller Jeanne Conklin, whose office oversees compliance with spending regulations.

Conklin wrote she "determined your request complies with criteria" for allowing first or business class seats, and pointed the Administrator's office to a specific paragraph of government travel regulations.

That paragraph states upgraded travel is allowed if "use of coach-class accommodations would endanger your life or Government property."

That regulation also requires the justification for upgraded seats be prepared for each trip.

"Blanket authorization of other than coach-class transportation accommodations is prohibited and shall be authorized on an individual trip-by-trip basis, unless the traveler has an up-to-date documented disability or special need," the regulation reads.

Update: This story has been updated to add the statement EPA gave to CNN after initial publication.

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### **Washington Examiner**

<https://www.washingtonexaminer.com/policy/energy/epa-justifies-scott-pruitts-first-class-travel-says-flying-coach-would-endanger-his-life>

#### **EPA justifies Scott Pruitt's first-class travel, says flying coach would 'endanger his life'**

By Josh Siegel, 5/7/18, 8:34 PM

The Environmental Protection Agency justified Administrator Scott Pruitt's frequent first-class travel by claiming coach seats would "endanger his life" due to "lashing out" from passengers.

Pasquale "Nino" Perrotta, who led Pruitt's 24/7 personal security detail before retiring last week, wrote in an 87-word memo, dated May 1, 2017, and obtained by the Washington Post, that the EPA used the reasoning to explain dozens of first-class flights for the embattled administrator.

Perrotta wrote that Pruitt's security team had observed "at times lashing out from passengers which occurs while the Administrator is seated in coach with [his personal security detail] not easily accessible to him due to uncontrolled full flights."

Sitting in first class, Perrotta said, would better control the flying environment for Pruitt.

"We believe that the continued use of coach seats for the Administrator would endanger his life," Perrotta wrote, "and therefore respectfully ask that he be placed in either business or first class accommodations."

Agency officials approved the request.

The memo is one of 1,700 pages of documents the EPA provided to the House Oversight and Government Reform Committee at the request of Chairman Trey Gowdy, R-S.C.

Gowdy first requested information from the EPA on Feb. 20 regarding how Pruitt has been able to obtain exceptions from federal rules to travel in first class.

The committee interviewed Perrotta last week as part of its investigation into Pruitt's spending and ethics.

Pruitt is at the center of several federal probes into his spending, which has involved about \$3 million spent on his security, including travel and overtime pay for Pruitt's detail, much of it approved by Perrotta.

The EPA has said it submits a security-related request for Pruitt to fly first class before each trip because of "unprecedented" threats from travelers.

The federal General Services Administration requires agencies' oversight staff to approve first-class travel "on a trip-by-trip basis ... unless the traveler has an up-to-date documented disability or special need."

"Blanket authorization of other than coach-class transportation accommodations is prohibited and shall be authorized on an individual trip-by-trip basis, unless the traveler has an up-to-date documented disability or special need," the policy states.

Previous documents the EPA submitted to the oversight committee showed Pruitt spent more than \$105,000 on first-class travel in his first year. That includes a \$16,217 flight to Morocco in December to promote natural gas, which is not part of the EPA's purview, and a \$7,003 ticket to Italy.

Pruitt has said he is now flying coach more often, in response to criticism.

Pruitt is the subject of 11 federal investigations, for his spending, ethics, living arrangements, and travel. The Morocco trip is being investigated by Congress and the EPA's inspector general.

Amanda Gonzalez, a spokeswoman for Gowdy, told the Washington Examiner Monday the oversight panel is "sorting through" and "trying to understand" the documents it has received from the EPA. Last month, Gowdy complained the EPA had failed to produce all the materials he requested relating to Pruitt's travel.

The EPA says it is complying with the committee's probe.

"We are working diligently with Chairman Gowdy and are in full cooperation in providing the committee with the necessary documents, travel vouchers, receipts and witnesses to his inquiries," EPA spokesman Jahan Wilcox said in a statement to the Washington Examiner Monday.

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### **Daily Caller**

<http://dailycaller.com/2018/05/07/scoop-trumps-epa-axe-obamas-de-facto-ban-on-new-coal-plants/>

### **SCOOP: Trump's EPA Will Axe Obama's 'De Facto Ban On New Coal Plants'**

By Michael Bastasch, 5/7/18, 10:56 PM

The Environmental Protection Agency (EPA) plans on repealing an Obama-era requirement effectively mandating all new coal-fired power plants be outfitted with unproven emissions technology, The Daily Caller News Foundation has learned.

EPA will modify the New Source Performance Standards (NSPS) for power plants as part of its effort to repeal the Clean Power Plan (CPP) — the centerpiece of the Obama administration's climate agenda. EPA will drop the de facto requirement that new coal plants install carbon capture and storage (CCS) technology Obama administration critics said would make it nearly impossible to build new coal plants.

"It's fantastic that the Trump EPA is repealing the Obama EPA's ban on new coal-fired power plants," Junkscience.com publisher Steve Milloy told TheDCNF.

It's not clear exactly how EPA will modify NSPS, but dropping the CCS mandate could mean raising carbon dioxide emissions limits for new power plants to a threshold that allows more highly efficient plants to be built.

In the past, coal plant operators have called for higher emissions limits to allow the building of supercritical and ultra supercritical units. Only one ultra supercritical coal plant, the Turk power plant, is operating in the U.S.

“While no new standard is really necessary since U.S. coal plants already burn coal cleanly and safely, kudos to the Trump EPA for requiring only the best existing and affordable technology,” said Milloy, who served on President Donald Trump’s EPA transition team.

The Obama administration finalized the NSPS in 2015, which set limits on how much carbon dioxide new power plants could emit. Emission rates for coal plants were set so low new plants would have to install CCS technology.

When the EPA finalized NSPS in 2015, the coal industry said it would effectively kill coal-fired power in the U.S. because it mandated unproven technology. EPA and environmentalists argued CCS was a viable technology. “Highly efficient supercritical pulverized coal unit with partial carbon capture and storage” was the best way to meet emissions limits, EPA found.

“This final standard of performance for newly constructed fossil fuel-fired steam generating units provides a clear and achievable path forward for the construction of such sources while addressing GHG emissions and supporting technological innovation,” EPA wrote in its 2015 regulation.

There were no operating U.S. power plants with CCS when the Obama administration promulgated its rule. To get around that fact, EPA relied heavily on a Canadian government-backed project CCS called Boundary Dam.

However, Boundary Dam only retrofitted a single coal-fired unit with CCS — not an entire power plant. The project has captured more than 2 million metric tons of CO<sub>2</sub>, but it’s come at a steep price of nearly \$1.2 billion.

The Obama EPA also cited U.S. projects in development to argue CCS was “technically feasible to implement at fossil fuel-fired steam generating units.” But all of those projects were government-funded, which GOP lawmakers argued violated the Environmental Policy Act of 2005.

For example, Southern Company’s Kemper power plant in Mississippi was one project EPA highlighted in its 2015 rule, but the plant suffered from massive delays and cost overruns. Building Kemper ended up costing more than \$7 billion.

On top of that, Kemper would not use its CCS equipment and instead burn natural gas, Southern CEO Thomas Fanning announced in 2017. Federal lawmakers are pushing legislation to further subsidize CCS to make the technology viable.

“Though the Obama EPA rule would technically have allowed coal plants that captured and stored about 50 percent of their CO<sub>2</sub> emissions,” Milloy said, “that standard was known to be financially, physically and politically impossible to meet for any existing or imagined coal plant.”

“The Obama standard was de facto ban on new coal plants,” Milloy said.

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### **Daily Caller**

<http://dailycaller.com/2018/05/08/ethanol-mandate-helps-oil-barons-are-making-billions-and-hurts-blue-collar-workers/>

### **ETHANOL MANDATE UPDATE: Oil Barons Are Making Billions And Blue Collar Workers Are Hurting (\*Op-Ed)**

By Michael J. Pappas, 5/8/18, 3:41 AM

It isn’t often that the president of the United States can avert a crisis with a stroke of a pen, but when it comes to saving blue-collar jobs, it could be that easy for Donald Trump.

In late April, steelworkers and small refinery workers traveled to Washington, rallying to save their jobs from a well-intentioned but nonfunctioning federal dictate.

That dictate is the ethanol mandate within the Renewable Fuel Standard, and it is causing small and medium-sized refineries to creep toward insolvency in droves.

Hoping it would lessen greenhouse gas emissions, Congress in 2007 required that refiners blend a specified percentage of ethanol into their gasoline each year. Now, however, Democrats concede this ethanol requirement harms, not helps, the environment — all while causing a multitude of other negative externalities for middle-income families.

Rep. Peter Welch, a Vermont Democrat and one of the ethanol bill's original cosponsors, recently stated that while the law's creators "had the best of intentions...it has turned out to be a well-intended flop." Welch went on to express disappointment with how his flawed legislation has unintentionally expanded greenhouse gas emissions, inflated food prices, and negatively affected small vehicle engines.

Instead of improving environmental conditions, the ethanol mandate has induced more government wealth transfers from small businesses to large, billion-dollar corporations.

Each gallon of renewable fuel receives a Renewable Identification Number (RINs), and the government counts each refiners' RINs credits to measure compliance with the ethanol mandate. Refineries that are unable to blend such high quantities of ethanol have the option of purchasing these tradable RINs credits from others that produce more gallons of ethanol-blended fuel than required of them by Washington.

But here's the catch: most independent merchant refiners are incapable of blending fuel and are thus beholden to the world's largest oil companies, which sell them their excess RINs. As a result, the government has in effect created an hugely profitable marketplace for companies such as BP PLC, Royal Dutch Shell PLC, and Chevron Corp., which could receive \$1 billion in revenue annually just from selling RINs.

While investors happily engorge in this speculative marketplace, small businesses across the country continue to struggle as a result. Purchasing these RINs credits — whether directly from one of these big oil companies or indirectly through a hedge fund or Wall Street bank — is not cheap. In fact, it is the main reason why the Northeast's largest refiner recently filed for bankruptcy.

The \$832 million Philadelphia Energy Solutions spends to comply with the RINs program cost more than retaining the company's 692 unionized steelworkers on payroll. With other refineries paying \$500,000 a day to comply with the regulation, the Center for Workforce Information & Analysis estimated in 2012 that more than 18 jobs disappear for each refinery layoff.

The Wall Street Journal is right: This program has become nothing more than an inadvertent, "multi-billion-dollar windfall for some of the world's biggest oil companies." That's why such companies formed a coalition, the Main Street Energy Alliance, which advocates for retaining the nonfunctioning ethanol mandate as-is.

Recognizing that thousands of jobs are on the line, EPA Administrator Scott Pruitt has granted 30 "hardship" waivers exempting small refiners from the RFS requirement. Appealing for government waivers to save blue-collar workers jobs might provide short-term relief but is not a long-term solution to the problem at hand.

Sen. Ted Cruz (R-Texas) is among those who are proposing a solution. He is requesting the EPA impose a cap on the cost of the RINs credits that smaller refiners must purchase to comply with the government's mandate. At last week's rally, he correctly noted that the law Congress passed in 2007 gives the executive branch flexibility to reform the RINs program.

President Trump should have every incentive to do so. After all, many thought his unlikely victory in 2016 came from his ability to appeal to the same blue-collar workers whose livelihoods are threatened by the RINs mandate. They are the "forgotten men and women" that President Trump promised to remember.



Reforming the RINs mandate will not only save jobs and families that are standing on the precipice of the unemployment line; it would also strike a blow against the special interests that are profiting on their backs — the same bad actors that the president says he wants out of Washington.

The time has come to save these jobs, help these families, and reform a broken system.

*Michael J. Pappas is a former Republican congressman for New Jersey's 12th congressional district.*

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## **E&E Greenwire**

<https://www.eenews.net/greenwire/stories/1060081133/search?keyword=EPA>

### **Pruitt meets, disappoints families harmed by paint stripper**

By Corbin Hiar, 5/8/18

EPA Administrator Scott Pruitt met today with the families of three men who were killed by a paint-stripping chemical that the Obama administration sought to ban from commercial use.

Drew Wynne and Joshua Atkins, both 31, and Kevin Hartley, 21, all died since last October while working with paint strippers containing methylene chloride.

The families sat down in the administrator's Washington office for about 35 minutes with Pruitt; Ryan Jackson, his chief of staff; Nancy Beck, the top political appointee in EPA's chemicals office; and two other aides, according to Brian Wynne, Drew Wynne's older brother.

They told the EPA leaders about how they lost their loved ones and pressed Pruitt to finalize an effective ban on the chemical proposed by the Obama EPA.

The previous administration moved to require methylene chloride to be distributed in 55-gallon drums, an effort to remove the toxic chemical from store shelves. But under Pruitt's leadership, EPA repeatedly pushed back the date the rule would take effect, and late last year, the Trump administration moved the regulation into its "long-term" action category for which there is no implementation date.

The response the families got from Pruitt was disappointing, Brian Wynne argued.

"We appreciate him meeting with us," he said. "But we're not satisfied with what we got out of it. And we made that very clear. Anything short of a ban is not going to work for us."

Brian Wynne pledged to continue pressing "the issue from a legislative angle and from a retail angle" and predicted that "we're going to get a ban very soon."

Brian Wynne called E&E News after meeting with Pruitt's team and a lawmaker who represents his family, Sen. Tim Scott of South Carolina. Scott was one of three Republican lawmakers from the Palmetto State who urged Pruitt earlier this year to restrict the sale of methylene chloride, which has killed more than 50 people in the last 35 years.

The Wynne family is also urging Lowe's, where Drew Wynne bought the paint stripper that killed him, and other home improvement retailers to phase out sales of potentially deadly methylene-chloride-containing products (Greenwire, March 29).

Meanwhile, Democratic lawmakers have been pressuring EPA to act, too. Pruitt faced questions about methylene chloride in both of his House budget appearances last month.

Pruitt told lawmakers then: "I take this issue very seriously."

When pressed for a timeline on when EPA would decide on the Obama administration proposal, he said, "It kind of depends on the volume of comments. But I would imagine that it's something that we can do this year."

Pruitt reiterated that commitment in today's meeting, which was arranged with the help of the public health advocacy group Safer Chemicals, Healthy Families. That did little to satisfy Brian Wynne.

"Soon is not acceptable when people are dying," he said.

Asked to comment on the meeting, an EPA spokeswoman said only that the agency is reviewing public reaction to the methylene chloride proposal "including comments suggesting that EPA quickly finalize these actions and comments suggesting that these actions be evaluated as part of the group of the first ten chemicals undergoing initial risk evaluations under the Lautenberg amendments to [the Toxic Substances Control Act]."

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### **Politico**

<https://subscriber.politicopro.com/transportation/whiteboard/2018/05/california-moves-to-protect-car-rules-from-trump-administration-rollback-1173899>

#### **California moves to protect car rules from Trump administration rollback**

By Alex Guillen, 5/8/18, 10:25 AM

California officials are laying the groundwork to protect the state's strict climate change rules for cars in the latest sign of an impending war with the Trump administration.

President Donald Trump has directed EPA and DOT to revise federal rules for cars and light trucks sold between 2022 and 2025, but California is resisting those plans.

In a Monday memo, the California Air Resources Board said it can enforce its own stricter greenhouse gas emissions rules for cars if EPA moves to weaken the national standards.

As part of a deal reached under the Obama administration, California agreed to approve any vehicle that met the agreed-upon federal standards through 2025 as "deemed to comply" with the state's own greenhouse gas standards.

CARB wrote Monday that it "believes its regulatory text clearly refers to the current federal standards adopted as part of the national program." But, the memo said, EPA Administrator Scott Pruitt's "unsubstantiated determination" last month that the federal standards need to be rolled back has prompted CARB to clarify that the "deemed to comply" provision applies only to the current standards.

CARB will keep in place its own rules for vehicles through model year 2025, known as LEV III. The agency "would take regulatory action as needed to clarify that compliance with any weakened federal standards will not be deemed compliance with CARB standards for the model years affected."

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### **Bloomberg**

<https://www.bloomberg.com/news/articles/2018-05-08/trump-eyes-twice-failed-legal-strategy-to-fight-california-regs>

#### **Trump Plans to Fight California Car Rules With Twice-Failed Strategy**

By Ryan Beene and John Lippert, 5/8/18, 4:00 AM

The Trump administration is preparing to battle California's tough car pollution regulations using an approach that federal courts have already rejected.

Twice.

Federal regulators are drafting a proposal that takes aim at California's cherished authority to set its own smog-busting rules. A leaked draft of the plan that is being finalized for submission to the White House shows that it wouldn't outright revoke the state's ability to set pollution standards, but it asserts that a 1975 law prohibits states from setting their own limits on greenhouse gas emissions.

"It strikes me as an extraordinarily weak legal argument," said Ann Carlson, a University of California Los Angeles law professor.

Similar arguments were made by carmakers during the George W. Bush administration, but were rejected by federal judges in California and Vermont in 2007. Those rulings, plus a landmark Supreme Court decision that year that concluded the EPA could regulate carbon dioxide emissions, pose legal obstacles for the Trump administration, Carlson said.

Other legal experts downplay the significance of those apparent obstacles, in part because appellate courts have never ruled on the matter.

"I think it really is very much an open question," said said Jeff Holmstead, a former assistant EPA administrator during the Bush administration.

The joint proposal by the Environmental Protection Agency and National Highway Traffic Safety Administration would weaken the standards negotiated by the Obama administration and the auto industry in 2009 amid taxpayer bailouts of carmakers. Also in 2009, California was granted a Clean Air Act waiver by the EPA to set standards in excess of the federal government's while agreeing to align its rules with Washington's.

In 2011, the standards were extended until 2025 to nearly double fleet-wide fuel economy to roughly 50 miles per gallon.

According to a summary of the plan released by Senator Tom Carper of Delaware, the agencies' draft proposal recommends freezing the standards from model year 2020 through 2026, setting fuel economy requirements at a 37 mpg fleet average in those years instead of rising each year.

NHTSA said in a statement it's still working with EPA on the proposal but declined to comment on the contents of the draft released by Carper's office. The EPA didn't respond to a request for comment.

Because of California's waiver, the state could opt to keep its standards despite a federal rollback, creating a patchwork of regulations that automakers fear. A dozen states tie their emissions standards to California, so more than a third of the U.S. auto market could have a separate set of tougher rules.

The so-called preemption argument in the draft EPA-NHTSA proposal "looks like an effort to do an end-run around the waiver," said Jody Freeman, a Harvard environmental law professor.

She helped broker the 2009 fuel efficiency pact with California as the counselor for energy and climate change in the Obama White House. She said the deal helped close a chapter of heated litigation over fuel standards and gave the industry nationwide targets that were predictable, albeit challenging. Reviving the argument that California is preempted will lead to additional court cases to rehash issues that two district courts and the Supreme Court have already decided, she said.

### Threatened Lawsuit

"Since 2010, it's been clear that all of these standards can live together harmoniously," Freeman said. "So now it's somewhat ironic to say 'Well, there's this terrible conflict and because of all this conflict we have to preempt them.' On its face, it's flying against all the evidence so far."

California officials have vowed to defend their standards. State Attorney General Xavier Becerra sued the U.S. last week in a Washington federal appeals court over the EPA's determination last month that the emissions limits for cars and light trucks are too stringent and must be revised.

Myron Ebell, director of the Center for Energy and Environment at the Competitive Enterprise Institute, said the Trump administration would be correct to assert that states are prohibited from regulating auto efficiency. He said the earlier defeats may turn out differently if revisited because a much stronger case in favor of preemption could be mounted in court.

"We can't allow a state to dictate national policy on something like this, and that's what's really happening here," Ebell said. "At the time the deal was done the auto industry was in a very weak position. They were beholden to the government so they had to sign onto it."

Holmstead, the former Bush EPA official who is now an attorney at Bracewell LLP, said courts often give wide latitude to federal agencies in interpreting laws that they're responsible for implementing.

"People who claim that there's no way the administration can do this, I think they're just wrong," Holmstead said.

### Conservation Act

NHTSA said in 2006 that the 1975 Energy Policy and Conservation Act gave it the sole authority to set fuel economy standards and preempted states from enacting their own. The agency said rules limiting tailpipe emissions are actually fuel economy regulations by a different name, and preempted by federal authority.

Automakers invoked that argument in the California and Vermont lawsuits to block the states from adopting their emissions rules. The car companies lost both.

The district court cases were relatively straightforward, UCLA's Carlson said. The judges found that the regulation of greenhouse gases is not the same thing as promoting greater fuel economy. This is true even though there's a direct correlation between how much gasoline a car consumes and how much carbon dioxide it emits, which allows the EPA to use fuel economy when setting its greenhouse gas targets, she said.

Those rulings cited the Supreme Court's 2007 decision in a dispute between Massachusetts and the EPA. The justices, by a 5-4 vote, ruled the EPA had authority to regulate carbon dioxide emissions, and in their majority opinion said that NHTSA's fuel economy rules could coexist with tailpipe greenhouse gas standards that EPA planned to set up at the time.

### Overlapping Obligations

"The two obligations may overlap, but there is no reason to think the two agencies cannot both administer their obligations and yet avoid inconsistency," Justice John Paul Stevens wrote in the court's majority opinion.

Because the preemption debate involves facts that have already been litigated, any new cases could move quickly, Carlson said.

California will probably ask a judge to let its current rules to remain in force while the fight plays out, and one of the federal appeals courts could rule within a year, she said. The Trump administration could then try to get the U.S. Supreme Court involved. But there's no guarantee the justices would take the case, since a court majority ruled against the federal government's preemption argument just 11 years ago, Carlson said.

Given the case history, the Trump administration's preemption argument is "highly unlikely" to prevail, said David Doniger, senior strategic director of the Natural Resources Defense Council's Climate & Clean Energy program.

"I don't know where they're getting their legal advice," he said. "If that's the tack they're going to take, then it's fourth down and 99 yards to go with 10 seconds left in the game."

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## **The Hill**

<http://thehill.com/opinion/energy-environment/386692-the-attack-on-our-clean-cars-is-the-biggest-scandal-at-epa>

### **The attack on our clean cars is the biggest scandal at EPA (\*Op-Ed)**

By Martha Roberts, 5/8/18, 1:45 PM

In spite of the seemingly endless string of scandals that have been emanating from the Environmental Protection Agency recently, some of the most jaw-dropping news stories in the last few days have been about attacks on America's clean car standards — a popular program that saves families at the pump and gives us cleaner air. The Trump administration's attempt to rollback those standards has now spurred a multi-state legal challenge in response.

Under the clean car standards, when you buy a new car you get a model that pollutes less and uses less gas than older models. Using less gas means your new car will save you money — in total, the clean car standards will save Americans more than \$1 trillion. That's likely why more than two-thirds of American voters support the clean car standards, according to a recent poll by the American Lung Association.

The clean car standards are also vital for protecting our health. The transportation sector is now America's largest contributor of climate pollution. It is also a significant source of the soot and smog-causing pollution that causes asthma attacks and other heart and lung diseases. The American Lung Association and 12 other public health organizations have all underscored the importance of maintaining protective clean cars standards.

Yet, the Trump administration is reportedly determined to roll back these safeguards.

Even some automakers are raising alarms about the administration's extreme attack. Honda said plainly "we do not support their rollback," and Ford said, "we support increasing clean car standards through 2025 and are not asking for a rollback."

That might be because of the success those companies are already developing cars and trucks that meet the standards. For instance, each Ford F-150 truck bought in 2015 uses about 180 fewer gallons of gas a year than earlier models, which saves its owner enough to more than cover a monthly payment each year.

An exhaustive technical review by multiple agencies found extensive evidence that automakers can meet the standards — and at lower prices than were originally predicted. There are already more than 100 car, SUV, and pickup models on the market that meet standards set for 2020 and beyond.

Last month, EPA Administrator Scott Pruitt unveiled plans to roll back the standards. The latest rumors indicate he plans to go even further, and attack long-standing provisions that allow states to lead on clean cars.

Under the Clean Air Act, states have the authority to put in place stronger limits on tailpipe pollution when federal standards fail to protect their citizens. Thirteen states and the District of Columbia, representing 113 million people and over a third of the automotive market, have exercised this right.

Pruitt just testified to Congress that these states' clean car standards were not in imminent danger. Then, barely one day later, leaked documents showed the Trump administration's plans to attack state leadership on clean cars.

Last week, a coalition of 17 states (California, Connecticut, Delaware, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington) and the District of Columbia sued to stop the reckless attempt to undermine the standards.

My organization, the Environmental Defense Fund, fully supports the states' legal challenge. We also plan to go to court to oppose the administration's unsupported and unacceptable action against the Clean Car Standards.

We are deeply concerned about what we could lose if Pruitt's rollback plan is successful. The Clean Car Standards are one of America's biggest success stories in combating climate change. Our own analysis shows the proposed rollback risks putting two billion tons of additional climate pollution in our air and costing American families \$460 billion in savings at the gas pump.

It would also serve no purpose. Americans aren't asking for more smog, or more climate pollution, or higher gas bills. No one — not even the auto industry — is enthusiastic about this proposed rollback. It's a plan that creates discord and benefits no one.

That's why it has grabbed headlines away from Pruitt's numerous ethical and financial problems. The attack on clean cars is actually the most scandalous thing EPA did last week.

*Martha Roberts is a senior attorney at Environmental Defense Fund, a bipartisan nonprofit environmental advocacy organization.*

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## Politico

<https://subscriber.politicopro.com/agriculture/whiteboard/2018/05/cruz-grassley-trump-backs-e15-waiver-credits-for-ethanol-exports-1178002>

### **Cruz, Grassley: Trump backs E15 waiver, credits for ethanol exports**

By Eric Wolff, 5/8/18, 1:53 PM

Sen. Ted Cruz (R-Texas) and Sen. Chuck Grassley (R-Iowa) say President Donald Trump agreed to allow ethanol exports to receive credits under the Renewable Fuel Standard and he reaffirmed that he will approve year-round sales of 15-percent ethanol fuels.

"Terrific final decision from @POTUS meeting: E15, year-round plus RINs for all exports. This is a WIN-WIN for everyone," Cruz tweeted. "More corn will be sold (good for farmers), plus lower RINs (saves blue-collar refinery jobs), plus more ethanol exports (good for America)."

A source familiar with the meeting said Trump did not make a final decision on allowing exported ethanol to receive the credits, called Renewable Identification Numbers. Current RFS rules do not allow exports to qualify for RINs. The source said Trump left EPA Administrator Scott Pruitt and Agriculture Secretary Sonny Perdue to work out the policy to change the RFS.

Grassley added, "Had WH mtg on RFS/ethanol. No RIN cap & got E15 yr round. Need to see Perdue+Pruitt plan. Devil in details."

Trump rejected putting a cap on RIN prices, which independent refiners have long sought to keep their costs in check. But it has been strongly opposed by ethanol makers and corn farmers.

Pruitt also "expressed openness" to reassigning the ethanol compliance obligation of small refiners who received a waiver from EPA back to larger refiners, according to a source familiar with the meeting.

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**Reuters**

<https://www.reuters.com/article/us-usa-biofuels-trump/trump-to-lay-out-biofuels-plan-in-meeting-with-senators-sources-idUSKBN1I919H>

**Trump to lay out biofuels plan in meeting with senators: sources**

By Jarrett Renshaw, 5/8/18, 7:05 AM

NEW YORK (Reuters) - U.S. President Donald Trump is expected to lay out his plans for the nation's biofuel policy on Tuesday in a closed door briefing with senators, after months of hearing arguments about the hotly contested regulation, according to two sources.

The meeting could bring to an end a tumultuous several months of talks between Big Corn and Big Oil over the future of the U.S. Renewable Fuel Standard, discussions that were mediated by the White House and intended to help oil refiners cope with the costs of the regulation.

"The White House is saying this is the last meeting, so we are expecting some type of resolution or some plan going forward," said one of the sources.

Republican Senators Chuck Grassley and Joni Ernst of major corn growing state Iowa will attend the meeting, along with Republican Senators Ted Cruz of Texas and Pat Toomey of Pennsylvania, whose constituents include big oil refining companies, the sources said on Monday, asking not to be named.

The RFS requires refining companies to mix increasing amounts of biofuels like corn-based ethanol into the nation's fuel each year, or purchase credits from companies that do.

The policy is intended to help farmers and cut petroleum imports. But some merchant refiners, like PBF Energy (PBF.N) and Valero Energy Corp (VLO.N), say it costs them hundreds of millions of dollars annually.

The Trump administration waded into the issue late last year after fielding complaints from the refining sector, and hosted a series of meetings with lawmakers and company executives representing both sides.

But the talks ended in dispute, with both sides complaining that they were not getting what they wanted.

At one point, Trump threw his support behind a proposal from Cruz to cap compliance credits at 10 cents apiece - a fraction of the current level - to reduce refiner costs. But the administration backed off the idea after corn states said it would weaken the incentive to blend biofuels.

Trump had also said he supports the idea of expanding sales of higher ethanol blends of gasoline, a concession to the corn industry, but a drawback for the oil industry which complains it would reduce petroleum's share of the fuel market.

The sources familiar with Tuesday's meeting said they did not know what, if any, new ideas Trump might propose.

Both the corn lobby and the merchant refining industry say a misstep could threaten the same blue-collar jobs Trump has vowed to support. But pressure to rein in regulatory costs has also softened in recent weeks as the price of compliance credits have hit five-year lows of around 30 cents.

Those declines were driven mainly by news the Environmental Protection Agency had granted more than two dozen hardship exemptions from the RFS to small refineries that say compliance would have been too financially difficult.

In the past, the EPA has tended to give out less than ten such waivers annually, according to former officials.

The expansion of the small refinery waiver program is due in part to a federal court decision last year that said the EPA had been too stingy with the exemptions in the past. But biofuel groups say the EPA is using the cover of the court to gut the RFS.

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## **The Hill**

<http://thehill.com/business-a-lobbying/386610-epa-pesticide-settlement-comes-under-scrutiny>

### **EPA pesticide settlement comes under scrutiny**

By Megan R. Wilson, 5/8/18, 6:00 AM

The Environmental Protection Agency's (EPA) decision to dramatically scale back a pesticide fine on a California company has raised eyebrows, highlighting the ethical land mines facing an administration filled with former lobbyist and business executives.

The Obama administration hit the company, Syngenta, with a \$4.8 million fine in December 2016 for violating pesticide regulations that resulted in the sickening of farm workers in Hawaii.

Once the Trump administration took over, the civil fine was reduced to \$150,000, though the EPA also ordered Syngenta to spend a minimum of \$400,000 to conduct worker training on how to use pesticides.

"Reducing pesticide exposure for the millions of farmworkers who cultivate our food is a high priority for EPA," wrote Alexis Strauss, the EPA's acting regional administrator for the Pacific Southwest and longtime veteran of the agency, in a statement last February. "This settlement will bring to Hawaii and Pacific Island growers much-needed training to protect agricultural workers."

The company and environmental regulators "agreed to settle this through the alternative dispute resolution process and there was no findings of liability. Syngenta maintains there was no violation of the law in this matter," a spokesman for the company emailed Mother Jones following the settlement in February.

"Agricultural worker safety is a top priority for Syngenta and safe use training has for many years been an integral part of the way the Company does business worldwide."

Close observers of the EPA noted that Jeff Sands, who was a top EPA agricultural adviser at the time of the settlement, was previously a lobbyist for Syngenta.

Sands told The Hill he was in no way involved in the decision to reduce the fine, and there is no evidence that he worked on the settlement. The move is also in line with other actions from President Trump's EPA, which has broadly focused on reducing regulatory burdens on industry and easing enforcement actions.

Still, ethics experts said Sands's connection to Syngenta illustrates the difficulties that arise from having so many former lobbyists serving in key positions.

"I think the optics are not particularly great, as become an apparent pattern with this administration," said Joshua Ian Rosenstein, a partner at Sandler Reiff Lamb Rosenstein & Birkenstock.

"There is a lot of lip service given to following ethical restrictions," he continued, "but report after report seems to indicate that there is very little commitment to ensuring compliance. I think this feeds into an overall picture that the administration doesn't take these issues very seriously at all."



Sands left Syngenta in October to join the EPA and become an agricultural adviser to Administrator Scott Pruitt. Government watchdogs decried the appointment, among others, saying the agency had been bringing on lobbyists despite the administration's promise to "drain the swamp."

The White House signed off on an ethics waiver that allowed Sands to work on issues he dealt with in the private sector, citing "his deep understanding of agricultural issues forged through his previous service with Congress, a trade association and a company."

Sands's résumé makes "him an ideal person to assist the Administrator and his senior leadership team to make EPA and its agricultural programs more efficient and effective," continued White House counsel Don McGahn.

The ethics waiver Sands received upon joining the EPA allowed him to work on issues that could affect his former industry, the agricultural sector, at large.

However, the waiver request did not ask that he be exempted from rules prohibiting him from being involved with any agency action that would specifically affect a former employer.

"The ethics waiver I received prohibited me from working on direct matters related to Syngenta's concerns in front of the agency, so I did not take any part in that decision-making process," Sands told The Hill, adding that he didn't even know a decision on the settlement had been made.

Four months after Sands joined the EPA, it officially lowered the fine, touting it as the largest ever for violations of the Federal Insecticide, Fungicide and Rodenticide Act protection standard.

In March, one month later, Sands left the agency. He's now an adviser for Rep. Ted Yoho (Fla.), a conservative Republican lawmaker who sits on the House Agriculture Committee.

"My decision to leave EPA centered on a desire to return to Capitol Hill after years of being away and for a change of pace. My work while at EPA revolved around garnering and sharing the perspective of the agricultural community to inform decision-makers at the agency," he told The Hill.

"My position as Policy Advisor for Congressman Yoho has me focused on many issues that are of concern to his constituents in North Central Florida including but not limited to agriculture."

Syngenta had been on Pruitt's radar, with two executives from the company meeting separately with him in May 2017, before Sands joined the agency, about pesticide regulation, according to calendars obtained by the New York Times.

"This fine had nothing to do with Mr. Sands nor Administrator Pruitt's meeting[s]," EPA spokesman Jahan Wilcox said in an emailed statement to The Hill.

Syngenta did not return a request for comment.

While experts such as Paul Achitoff, a lawyer for environmental group Earthjustice, told The Associated Press at the time of the settlement that regulatory agencies typically begin at the highest possible fine and negotiate to a lower amount, rarely is it lowered by such a large amount.

Sands's new post is a substantial pay cut from his time at the EPA, during which his annual salary was an estimated \$161,900, according to a database created by ProPublica, and an even bigger step down from his time at Syngenta.

The financial disclosure forms Sands submitted when he joined the EPA disclosed his salary and bonuses at the company at \$261,000.

Yoho's legislative director — the fourth highest paid person in the office, after the lawmaker's chief of staff, district director and communications director — earns roughly \$78,000 per year, according to congressional tracking website Legistorm. Other advisers make less.

While at Syngenta, Sands lobbied the EPA on pesticides issues, according to lobbying disclosure reports covering six months of the Trump administration and another six months of the Obama administration. He had also reported advocating before Capitol Hill, the White House, the Commerce Department and other executive agencies on issues such as tariffs, the renewable fuel standard and biotechnology issues.

The Obama-era EPA cited two violations of pesticide use laws by Syngenta. In January 2016, a Hawaiian subsidiary of the company allegedly treated a field on a farm with a chlorpyrifos, a powerful pesticide so dangerous that it is not sold to the general public and workers are required to wear protective gear when working around it.

The company did not warn the workers that the field had been recently sprayed, nor did they have "adequate decontamination supplies" at the farm. Ten workers were taken to the hospital, though the company later said none were injured.

The second violation came in January 2017, when workers were again not warned to stay out of a chlorpyrifos-treated field.

Although it is among the most-used pesticides around the world, the Obama administration moved to ban it, citing studies showing it could have adverse effects on brain development in children and may endanger threatened species in the ocean. Pruitt abandoned the regulatory effort.

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### **Daily Caller**

<http://dailycaller.com/2018/05/07/eric-schneiderman-epa-transparency-resigning-in-disgrace/>

### **Anti-Trump AG Tried To Shut Down EPA's Transparency Plan Hours Before Resigning In Disgrace**

By Chris White, 5/7/18, 11:13 PM

New York AG Eric Schneiderman promised to bring down EPA's transparency plan hours before a slew of domestic abuse charges brought down the climate crusading lawman.

Schneiderman, a Democrat and fierce opponent of President Donald Trump's climate agenda, planned on targeting EPA's transparency in science plan, the former AG said Monday afternoon. That was before four women accused him of abusing them during sex romps.

"#BREAKING: I'm leading eight AGs against Scott Pruitt's absurd plan to have the @EPA limit the science it uses to make decisions about our public health and our environment," Schneiderman wrote in a tweet less than four hours before his career ended.

Four women are accusing Schneiderman of subjecting them to nonconsensual physical violence and threatening to kill them if they ever broke up with him, among other abusive behavior, The New Yorker reported on Monday.

Michelle Manning Barish was in a relationship with Schneiderman for nearly two years before he allegedly called her a whore during a drunken stupor, slapped her across the face and the ear, and held her down and choked her, she said. Three other women accused the New York lawman of similar actions.

Schneiderman has been involved in several lawsuits targeting ExxonMobil, Trump, as well as the president's climate agenda. It is not yet certain what will come of the global warming crusader's litany of legal pursuit.

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## **The Hill**

<http://thehill.com/policy/energy-environment/386562-dem-ags-ask-pruitt-to-halt-transparency-proposal-to-restrict-epa>

### **Dem AGs ask Pruitt to halt 'transparency' proposal to restrict EPA science**

By Timothy Cama, 5/7/18, 3:21 PM

Eight Democratic attorneys general are pushing Environmental Protection Agency (EPA) head Scott Pruitt to rescind a proposed regulation that would restrict the science the agency could use in writing and enforcing regulations.

The group, led by New York Attorney General Eric Schneiderman (D), hinted that they might sue the EPA if it moves forward with the rule that they and other critics say is an attempt to stop the EPA from using some major findings on health, pollution and other issues.

"In light of the far-reaching impact the proposal could have on EPA's mission to protect public health and the environment, we ask that you withdraw the proposed rule and convene a process to first consult with the National Academy of Sciences and other independent scientists and science organizations before deciding whether any proposed changes to EPA's current use of scientific evidence are in order," they wrote.

The proposal released last month sought to improve transparency in scientific decisionmaking and stop the use of "secret science." Scientific findings and data used by the EPA would have to be reproducible and completely available to anyone wishing to scrutinize it.

Pruitt said at the time that the proposal showed "an agency taking responsibility for how we do our work, in respecting process ... so that we can enhance confidence in our decision making."

Critics say the rule is unnecessary and would only hinder the EPA in its mission to protect public health and the environment.

The Democratic attorneys general, representing seven states and Washington, D.C., also asked Pruitt to extend the current 30-day public comment period by "at least" 150 days, which would add up to a half a year.

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## **Chicago Tribune**

<http://www.chicagotribune.com/news/local/breaking/ct-met-nw-indiana-lead-contamination-20180429-story.html>

### **EPA discovers another lead-contaminated neighborhood near East Chicago**

By Michael Hawthorne, 5/8/18, 6:44 AM

Almost every time federal officials test a yard in northwest Indiana, they find staggering levels of brain-damaging lead in the soil.

The latest toxic neighborhoods uncovered by the U.S. Environmental Protection Agency are near an abandoned smelter that churned lead, arsenic and other heavy metals into the air during most of the last century. Soil samples collected since October have identified more than two dozen contaminated yards in Hammond and Whiting, and EPA officials expect to find more as they expand their investigation.

In a situation eerily similar to the lead-contamination crisis still unfolding in nearby East Chicago, authorities failed to test residential areas next to the former Federated Metals property for more than three decades, even though the EPA and the Indiana Department of Environmental Management designated it one of the region's most toxic industrial sites in the mid-1980s.

Neighbors wonder why it took the federal agency so long to get involved. Based on interviews and a review of documents, the history of the shuttered Federated Metals smelter appears to have been all but forgotten until 2016, when career employees at the EPA's Chicago office began digging through files on polluted sites in northwest Indiana that either haven't been cleaned up or weren't scoured thoroughly enough years ago.

"It leaves you thinking they really don't care about us," said David Dabertin, a Hammond attorney who led the state environmental agency's northwest Indiana office during the early 1990s.

Nearly 10,000 people live within a mile of the former smelter. Between 2005 and 2015, 53 children younger than age 6 in census tracts surrounding the site had lead levels exceeding federal health guidelines — more than 8 percent of those tested, according to data provided by the Indiana State Department of Health.

The ongoing inquiry is part of the EPA's response to national criticism of its slow reaction to polluted water in Flint, Mich., and lead-contaminated housing in East Chicago, where the EPA is overseeing the long-delayed removal of tainted soil from neighborhoods near other smelters that closed long ago. Crews are demolishing a housing complex after more than 1,000 low-income residents were forced to evacuate last year.

Like the EPA eventually did in East Chicago, officials began determining the scope of contamination near the Federated Metals site by testing publicly owned properties. They found levels of lead in the soil up to five times the federal cleanup standard for areas where children play, records show, prompting them to go door to door seeking soil samples from privately owned residential properties.

Of the 30 homes sampled last year, 25 had lead levels in soil exceeding the cleanup standard of 400 parts per million, records show. Nine of those yards had lead above 1,200 ppm in the top few inches of soil, with one as high as 2,760 ppm.

For now, the EPA has earmarked \$1.7 million in taxpayer funds to remove contaminated soil around 20 homes where young children or pregnant women live. The agency is waiting for results from additional testing conducted in early April.

Scott Pruitt, the Trump administration's embattled EPA administrator, drew attention to the investigation last month during a brief stop at one of the contaminated properties with Indiana Gov. Eric Holcomb. But the two Republican officials left residents with more questions than answers about hidden hazards in working-class neighborhoods built during the last century around Federated Metals and other industries, including the sprawling BP refinery across Indianapolis Boulevard from the former smelter.

Most local officials and media were not informed of the visit until after Pruitt and Holcomb had left to tour the Mascot Hall of Fame in Whiting. The few public records summarizing what the EPA knows about Federated Metals weren't posted online until after inquiries from the Tribune, unlike the extensive documentation typically provided for highly polluted sites in the agency's Superfund program.

Pruitt's staff later emailed reporters a photograph of the EPA administrator shaking hands with Holcomb, flanked by Cathy Stepp, the agency's regional administrator, and Whiting Mayor Joseph M. Stahura. Yet there has been little public outreach from the agency about its plans in Whiting and the Robertsdale neighborhood of Hammond.

Indiana officials did not respond to emailed questions. The EPA declined to make officials available for an interview, instead sending a prepared statement from Stepp on Friday.

"With our sustained cooperation and teamwork — and Administrator Pruitt's personal attention — very soon impacted families in Hammond and Whiting will no longer face an unacceptable threat from lead-contaminated soil in their own backyards," Stepp said in the statement.

On Lakeview Street, just north of the former smelter, several residents interviewed last week said they were unaware of the EPA investigation.

Steve Krajnik, a retired postal worker who has lived on the street his entire life, said he turned agency officials away when they asked for permission to collect a soil sample from his yard. He initially said he wasn't concerned about lead hazards at his age, but later suggested why families with young children might have reason to be concerned.

"At night they would just let the smoke pour out of the Federated building," said Krajnik, 80, noting his father built their family's house in the early 1930s around the same time the smelter began operating. "On some nights my dad would come home from bowling, and the smoke was so thick you couldn't see a thing."

Federated Metals operated at the site from 1937 to 1983. The company was subject to a state enforcement action in 1985 and a pair of federal legal settlements that demanded an immediate cleanup. But for reasons still unexplained by state and federal regulators, toxic slag and other hazardous waste dumped throughout the property wasn't removed until the mid-2000s.

Throughout the years, state and federal records show, regulators were more concerned about toxic chemicals leaching in groundwater than soil contaminated with heavy metals. There is no reference to residential testing in any of the historical summaries made public so far.

"This is another example of the EPA and the state of Indiana dropping the ball time after time again," said Mark Templeton, director of the Abrams Environmental Law Clinic at the University of Chicago, who has not been involved in the Federated Metals case but represents citizens in other regional disputes.

Most of the on-site waste was sealed in a landfill next to the smelter building along Lake George. Earlier this year, records show, the EPA traced the lead found in surrounding neighborhoods by comparing the ratio of metals in samples collected from the landfill with those obtained from residential yards.

Dabertin, the former regional director of the state environmental agency, asked Pruitt and Holcomb during their recent visit why the federal and state governments have allowed other lead-processing companies to operate on the site since Federated Metals closed. In December, the state of Indiana renewed an air pollution permit for the current occupant, Whiting Metals, and rejected calls from Dabertin and others to hold a hearing to address public concerns.

It is unclear how much lead Whiting Metals emits into the air. The facility is small enough that it is not required to submit information to the EPA's Toxics Release Inventory, a public database created in response to chemical disasters.

"You are telling these people there is lead in their backyard, but (the state environmental agency) just permitted that facility to produce lead," Dabertin says to Holcomb on a video posted on Facebook by Thomas Frank, another local activist. "That's a disconnect."

Holcomb nodded toward the smelter property and promised Dabertin he would look into the matter. Dabertin said he still hasn't heard back from the governor.

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#### **Wall Street Journal**

<https://www.wsj.com/articles/maryland-to-other-states-stop-sending-us-your-dirty-air-1525771800?mod=searchresults&page=1&pos=1>

#### **Maryland to Other States: Stop Sending Us Your Dirty Air**

By Kris Maher, 5/8/18, 9:43 AM

FROSTBURG, Md.—From a grassy hilltop in western Maryland, a high-tech spying operation tracks the source of pollution and ozone coming into the state.

The state's regulators use such automated air-monitoring stations to distinguish if pollutants are coming from cars or power plants. Combining the measurements with federal data, Maryland has analyzed the emissions of every coal-fired power plant east of the Mississippi River and identified 36 in five states as top contributors to Maryland's smog-producing ozone.

"We are literally in a position where we can't control ozone in our own state," said Tad Aburn, director of Maryland's Air & Radiation Administration. "The only thing we can do is try to force upwind states to reduce emissions."

The Frostburg lab, set amid dairy farms and wind turbines, is helping to bolster Maryland's argument in a multistate legal battle that coal-fired power plants in other states are to blame for ozone problems in Baltimore and elsewhere. The state's air-monitoring effort also deploys airplanes, balloons and lasers.

Maryland, Connecticut, Delaware and New York have petitioned or sued the Environmental Protection Agency in the past several years to step in to cut emissions in the Midwest and Appalachia. The EPA, under both the Obama and Trump administrations, has declined to do so.

Levels of ozone and other pollutants have plunged over the past several decades, with stronger air regulations and the reductions in coal-fired power plants. At the same time, tighter federal air-quality standards have forced states to do more to lower ozone emissions.

East Coast states say they must spend more than their fair share because the air has already been polluted before it reaches them. States including Maryland—which has seven coal-fired power plants of its own—say that makes it tougher for them to comply with federal ozone standards.

An EPA spokeswoman said the agency believes existing provisions under the Clean Air Act will be effective at addressing remaining ozone issues between states.

Midwest power producers argue that federal rules and some issued by the state, such as a rule adopted last year by Pennsylvania to cut nitrogen oxides emissions, are already causing ozone levels to fall fast enough that states will be able meet the 70 parts per-billion standard that takes full effect in 2023.

"Our friends in the Northeast obviously disagree," says Dave Flannery, with the Midwest Ozone Group, an advocacy group of power-generation and industrial companies.

On a recent day in Frostburg, the hilltop station registered ozone levels entering Maryland close to 70 parts per billion. As the morning progressed, the levels crept up elsewhere across the state, in some cases climbing from the single digits to 65 parts per billion. The causes include local sources like cars and Maryland's own power plants, but also wind-borne pollutants from elsewhere.

"You can see day to day, and sometimes hour to hour, the plumes move from one place to another," said Russ Dickerson, a professor at the University of Maryland who helps coordinate the state's observations, which include ground-based lasers to detect the plumes.

Last year, air-monitoring stations in Baltimore exceeded the 70 parts per billion standard on six days. EPA has required Maryland to show that the city and two other areas will be below that standard by 2020, which will mean cutting local emissions. Maryland argues that its ozone would be reduced 2 to 5 parts per billion if upwind power plants in other states used pollution controls more often.

The fight has been heating up in the courts. Maryland sued the EPA last fall in federal court in Washington, D.C. In February, a federal judge separately ordered the EPA to respond to Connecticut's petition to lower emissions at a Pennsylvania power plant.

In March, New York state filed its own petition with the EPA asking it to cut ozone in nine upwind states, mostly in the Midwest.

Maryland has done more than other states to pinpoint where its ozone is coming from, but industry experts say the state is overestimating levels of emissions from upwind states and that Maryland is likely to be in compliance in the future.

Under modeling by the Midwest Ozone Group, high levels of ozone in some areas of Maryland and other states would be lower if exceptional events such as forest fires were excluded from calculations and some coal-plant retirements were factored in.

"The emissions are reducing at a speed that no one ever in a million years suspected they would decline," said Vince Brisini, director of environmental affairs at Olympus Power LLC, an owner of coal-burning power plants.

Mr. Aburn, the Maryland air regulator, acknowledged his state had made "huge progress" in meeting federal ozone standards, but that pollution coming in from other states remained a big problem. "We still have more work to do," he said.

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## **BN**

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### **Trial Ahead in Alabama Superfund Bribery Case**

By Steven M. Sellers, 5/8/18

A jury will decide whether a corporate executive and two Alabama lawyers bribed a state legislator to head off a company's Superfund liability, a federal court in Alabama ruled May 4.

The defendants allegedly sought to forestall potential environmental liability by paying the legislator to portray EPA cleanup plans as federal overreach—an unusual scenario in Superfund-related litigation that typically occurs in civil, not criminal, courts.

The grand jury indictment alleges that David Roberson, an executive with Birmingham, Ala.-based Drummond Co., conspired with lawyers Joel Gilbert and Steven McKinney, of Balch & Bingham, to derail EPA plans to add the 35th Avenue Superfund Site to the National Priorities List.

That designation would ramp-up cleanup efforts at the Birmingham site, leading to the risk of cost recovery litigation against Drummond and other companies found to be responsible for any contamination.

At least \$360,000 was allegedly funneled to a charitable foundation run by then-state representative Oliver Robinson, who pleaded guilty to federal conspiracy, bribery, and other charges last year.

The court rejected defense arguments that McDonnell v. United States, a 2016 U.S. Supreme Court ruling narrowly defining "official acts" in federal bribery cases, barred the prosecution.

The allegations here were supported by three "official acts" by Robinson, the U.S. District Court for the Northern District of Alabama said.

They included a meeting with EPA officials at which Robinson opposed the EPA plan, his communications with state environmental officers, and his vote to advance a resolution calling on the state attorney general “to combat the EPA's overreach,” the court said.

Arguments that the prosecution also impinged on protected political speech fared no better. There was “no indication that the government targeted the defendants because of their speech,” as opposed to their conduct, the court said.

Judge Abdul K. Kallon wrote the opinion.

Gibson, Dunn & Crutcher LLP; Lightfoot Franklin & White LLC; and Frohsin & Barger LLC represented Gilbert.

Gillen Withers & Lake LLC, Baxley Dillard McKnight James & McElroy, and the Law Office of Lawanda Hodges LLC represented McKinney.

The Bloomston Firm, Buckley Sandler, and Jones Day represented Roberson.

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### **Santa Fe New Mexican**

[http://www.santafenewmexican.com/news/local\\_news/cibola-county-opposes-epa-cleanup-site-proposal-for-basin/article\\_7a45052b-8d79-5eea-8cb9-99a99f651031.html](http://www.santafenewmexican.com/news/local_news/cibola-county-opposes-epa-cleanup-site-proposal-for-basin/article_7a45052b-8d79-5eea-8cb9-99a99f651031.html)

### **Cibola County opposes EPA cleanup site proposal for basin**

By Tripp Stelnicki, 5/7/18

County officials in west-central New Mexico say federal environmental regulators should not turn a large creek basin near old uranium mines into a Superfund cleanup site.

Cibola County commissioners late last month expressed their opposition to an Environmental Protection Agency proposal to put the San Mateo Creek Basin on its Superfund National Priorities List, saying such a designation might foreclose the “potential of the return” of the uranium mining industry.

“The proposed listing ... has the potential to negatively affect this activity before we have the opportunity to deliberate its future development,” commissioners wrote in a resolution.

The Cibola commissioners said that while they encouraged cleanup of unreclaimed mines in the 321-square-mile basin, “these issues have existed for over 50 years.”

“A rushed listing of the entire basin may have unintended consequences and may not be the best solution for our community,” the resolution states.

The EPA had not included the San Mateo Creek site on its list of proposed priorities as of late last month. A spokeswoman said Monday the agency has agreed to allow more time for “companies to develop alternative approaches.”

Groundwater in the San Mateo Creek Basin, which sits within the Rio San Jose drainage basin in both Cibola and McKinley counties, might have degraded as a result of 89 uranium mines and mill sites that comprised the Grants Mining District during its heyday from the 1950s through the 1990s, according to the EPA.

The county’s stance against cleanup provisions comes as environmental groups protest the state’s decision to allow the inactive Mount Taylor uranium mine near Grants to return to “active” status — a move the environmental groups say will allow the mine to avoid cleanup activities.



Cibola Commissioner Jack Moleres, a Democrat, said the county opposition to the prospective Superfund listing was not specific to any one mine, Mount Taylor included.

"It's more general," Moleres said. "It depends what arises. I believe it puts restrictions on the possibility of anything coming in. We wanted to have the conversations on if there is potential [for the mining business to return] and then go from there."

Commissioner Robert Windhorst, a Republican, said a Superfund designation would be no boon to the county.

"What we are trying to accomplish in Cibola County is jobs, jobs, jobs!" Windhorst wrote in an email. "The same tree-huggers that are fighting against the uranium industry would be happy to stop oil drilling and coal mining in our state and county. The EPA has exceeded [its] original mandate and has become one the the biggest killers of economy in our nation."

Scott Pruitt, the embattled EPA administrator whose tenure has been criticized as overly industry-friendly by environmental groups, has nonetheless emphasized robust Superfund cleanup efforts as a priority he has pledged to "restore ... to its rightful place at the center of the [EPA's] core mission."

There are 16 New Mexico sites listed as EPA Superfund priorities, according to the agency website, the most recent of which, in Roswell, was added in April 2016.